

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

3 IN THE MATTER OF, Case No. 13-53846
4 CITY OF DETROIT, MI Detroit, Michigan
September 10, 2014
_____/ 8:30 a.m.

5
6 IN RE: JOINT MOTION TO ADJOURN HEARING RE: AMENDED CHAPTER 9
7 PLAN BY SYNCORA AND THE CITY OF DETROIT; TRIAL
8 BEFORE THE HONORABLE STEVEN W. RHODES
9 TRANSCRIPT ORDERED BY: ROBIN WYSOCKI

10 APPEARANCES:

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1 (Court in Session)

2 THE CLERK: Case number 13-53846.

3 THE COURT: Good morning. It appears everyone is
4 here.

5 MR. CULLEN: May it please the Court, Your Honor,
6 Thomas Cullen of Jones, Day representing the city.

7 Last night we filed a joint motion with Syncora seeking a
8 brief continuance in these proceedings. Also last night Mr.
9 Orr sent to the city council for approval a settlement
10 agreement with Syncora which we think is a fairly significant
11 development in the case. May I hand that up to the Court?

12 THE COURT: Sure.

13 MR. CULLEN: In light of this settlement in
14 principal and this term sheet, we think it would be useful in
15 order to allow the parties to work together on definitive
16 documentation and to allow the other parties to re-assess
17 their path forward in this litigation in light of these
18 changed circumstances to have a brief continuance in the
19 proceeding.

20 I'm advised by the attorneys for FGIC, and they can of
21 course speak for themselves, that they do not oppose the
22 continuance and they would -- they would like to have it go
23 until Monday. They think that that would be easier for
24 reasons that they can explain. We have no -- we have no
25 objection to that. That's all I have, Your Honor.

1 THE COURT: Thank you. Would anyone like to be
2 heard regarding --

3 MR. CULLEN: Oh, one other -- one other -- I'm
4 sorry. I also have with -- here in the courtroom today, Ms.
5 Ball who can speak to the terms and procedures of the
6 settlement to the extent that the Court thinks it's
7 appropriate. Ms. Lennox who can speak to where we -- where we
8 are in terms of folding this settlement into the plan in terms
9 of additional documentation and in terms of papers that were
10 placed -- be placed before the Court.

11 THE COURT: Okay. Well, I guess I would like to
12 hear from Ms. Lennox on that question.

13 MR. CULLEN: Yes.

14 MS. LENNOX: Thank you, Your Honor. Good morning.
15 Heather Lennox, Jones, Day.

16 Obviously this settlement would have to be reflected in a
17 new amended plan because it does change and improve the
18 treatment for the Class 9 claimants. There are other factors
19 of the settlement that would also have to be put into the
20 plan.

21 We are in the process of re-drafting the plan right now.
22 There are a few mechanical issues that need to be worked out.
23 And so until definitive documentation is complete, we won't be
24 able to complete the new draft of the plan.

25 Again, we don't expect the changes to be extensive in
13-53846-tjt Doc 7924 Filed 10/13/14 Entered 10/13/14 12:07:42 Page 4 of 10

1 terms of verbiage, but they would be significant in terms of
2 settlement. So we would expect that when the definitive
3 documentation is completed to be filing a seventh amended plan
4 with the Court.

5 THE COURT: Okay. Would anyone else like to be
6 heard regarding this matter?

7 MR. BENNETT: Good morning, Your Honor. Ryan
8 Bennett of Kirkland and Ellis on behalf of Syncora.

9 Your Honor, over the past couple weeks Syncora worked
10 with the city and the mediators to develop a set of creative
11 transactions which we seek to unlock additional value in
12 connection with the city's restructuring. This intended
13 result is not just a partnership of plan confirmation, but a
14 partnership for the future of Detroit.

15 The proposed transaction currently contains certain
16 contingencies that are going to need to be worked out over the
17 next couple of days, specifically one with respect to Syncora
18 and the city and the city's swap providers, Bank of America
19 and UBS. Specifically for Syncora and Detroit to get the --
20 the benefit out of the deal. The UBS and Bank of America are
21 going to need to provide Syncora with the same release that
22 they're providing to -- that they're -- that they're -- the
23 same release that the city is providing to them.

24 Syncora believes that given its counter claims and
25 defenses, a release should not be a material concession.

1 MR. CULLEN: I'm sorry, no. We're moving toward the
2 same side of the aisle. But I think we're getting -- I think
3 we're getting into mediation protected areas now. And I don't
4 think that's appropriate for the Court.

5 THE COURT: I don't feel the need to have all of
6 this put on the record now. Is that okay with you, sir?

7 MR. BENNETT: Understood, sir, yes. We're hopeful
8 that we reach an agreement with UBS, and Bank of America, and
9 the city. Thank you.

10 MR. PEREZ: Good morning, Your Honor. Alfredo Perez
11 on behalf of FGIC.

12 Your Honor, we learned about this last night and Ms. Ball
13 was kind enough to provide us copies of the documents late
14 last night. But, Your Honor, we would request that the
15 continued be till Monday. At that time we'll be able to
16 better assess what it is that we're going to have to -- what
17 we're going to tell you.

18 We need to understand it's not -- I've read it twice and
19 it's still -- I'm still having a hard time understanding it.
20 We certainly don't have any value -- any values, so we're
21 trying to figure out what the values are. Obviously we
22 haven't had a chance to consult with the client, we're going
23 to need to do that.

24 In addition, Your Honor, you know, by our count there's
25 probably ten to 15 witnesses that we're going to have to

1 rejigger in order -- in order to go forward. So I would
2 request that we really -- first of all, we'd like to see the
3 definitive documents. We'd like to see the plan amendment. I
4 don't know whether there's going to be a supplemental
5 disclosure statement which describes the values attributable
6 and the -- and the recoveries.

7 So I -- I leave that to them. But we're going to need
8 to, you know, have an opportunity to fully explore all of that
9 before we're going to be in a -- in a -- in a good position to
10 -- to continue.

11 THE COURT: Well, I -- I want to share some of the
12 concern that you have expressed here. And I'm certainly
13 willing to adjourn the trial until Monday. But if you want
14 any relief beyond that, we're going to have to have a further
15 conversation about it.

16 MR. PEREZ: Your Honor, and -- and -- and --

17 THE COURT: In the absence of a further order of the
18 Court you should be prepared to proceed with trial Monday
19 morning.

20 MR. PEREZ: And, Your Honor, understood. But I hope
21 the Court is also fair given -- given the circumstances that
22 we don't even really know what's happening yet.

23 THE COURT: Always.

24 MR. PEREZ: Thank you. And Your Honor, to the

1 that -- that we need relief.

2 THE COURT: Of course. All right. I want to ask
3 you, sir, to be extremely circumspect in what you put on the
4 record right now. In fact, I want you to consider whether you
5 need to put anything on the record.

6 MR. MONTGOMERY: Yes, Your Honor. We are not
7 objecting to the continuance. We are, as you know, a plan
8 supporter. We are, as you know -- Claude Montgomery, by the
9 way, Your Honor, for the committee.

10 We are in fact plan supporters of the sixth amended plan.
11 We do not know what our position is with respect to this
12 document that was circulated last night. And I just wanted
13 the Court to understand that.

14 THE COURT: Anyone else want to be heard?

15 MR. WAGNER: Your Honor, Jonathan Wagner from
16 Kramer, Levin on behalf of the COPS. We join in FGIC's
17 request. I'd also note that I believe the first day of trial
18 you said September 15th is the date to hear the Kopacz motion.
19 I want to just put that on your radar screen and note that
20 that may have to be put off as well.

21 THE COURT: I did remember that. Thank you.

22 All right. For the record, I will enter an order
23 adjourning the trial until Monday morning at 8:30. I do feel
24 the need, however, to speak to Ms. Lennox and Mr. Bennett

25 briefly at the side of the bench before we adjourn for the
13-53846-tjt Doc 7924 Filed 10/13/14 Entered 10/13/14 12:07:42 Page 8 of 10

1 day. So everyone please just stand by while we do that.

2 (Off the Record Discussion at Side Bar)

3 THE COURT: All right. Thank you for your patience.
4 At this time we will be in recess until Monday at 8:30. I
5 would, however, like to see one representative of the city and
6 one representative of FGIC in my office, or in Ms. Cook's
7 office back here.

8 MR. HACKNEY: Your Honor, I'm sorry. I was just
9 wondering if I could follow up on what Mr. Wagner said which
10 is could we -- could we impose upon the Court to specify in
11 the order whether or not Monday will still be Ms. Kopacz's day
12 or not.

13 THE COURT: Oh. I -- I intended it to be.

14 MR. HACKNEY: Okay. So --

15 THE COURT: Is there -- is there some reason why we
16 should reconsider that?

17 MR. HACKNEY: There isn't, I just wanted to know.

18 THE COURT: Yeah.

19 MR. HACKNEY: Yeah.

20 THE COURT: Okay. Well, I -- yeah. She's -- she's
21 planning to be here and --

22 MR. HACKNEY: Makes sense to me.

23 THE COURT: I think we should just proceed with our
24 order. Okay.

25 (Court Adjourned at 8:41 a.m.)

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7 We certify that the foregoing is a correct transcript from the
8 electronic sound recording of the proceedings in the
9 above-entitled matter.
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11 /s/Deborah L. Kremlick, CER-4872
12 LaShonda Moss
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Dated: 9-14-14